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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,118	09/25/2006	Hans Kraemer	CB60414	3697
20462 7590 04/06/2011 GlaxoSmithKline GLOBAL PATENTS -US, UW2220 P. O. BOX 1539 KING OF PRUSSIA, PA 19406-0939				
EXAMINER				
SPISICH, MARK				
ART UNIT		PAPER NUMBER		
3727				
NOTIFICATION DATE		DELIVERY MODE		
04/06/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

US_cipkop@gsk.com

Office Action Summary

Application No.

10/566,118

Applicant(s)

KRAEMER, HANS

Examiner

Mark Spisich

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7 and 10-21 is/are pending in the application.
- 4a) Of the above claim(s) 12-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 21 January 2011 has been entered.

Election/Restrictions

2. Claims 12-21 remain withdrawn from consideration as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,3-7,10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over **either** Inns et al (USP 5,970,564) **or** Scheier et al (USP 5,355,546), in view of Moskovich et al (US PUB 2004/0025275). The patent to Inns discloses a toothbrush head (23,24) which incorporates a mass of (polyurethane: column 4, line 19) elastomeric material (6,25) in which ends of (nylon: column 4, line 6) are embedded and bonded (column 4, lines 32-67). The patent to Scheier discloses a toothbrush (10)

comprising a head (11A) incorporating a mass of elastomeric polyurethane material (13) (column 2, line 66) supporting tufts of (nylon: column 4, lines 16-18) bristles (12) with ends thereof being embedded in the polyurethane material and secured in a manner including adhesive, fusion and injection molding techniques (column 3, lines 1-2). Both the prior art toothbrushes of Inns and Scheier disclose the invention substantially as claimed, including the nylon bristles embedded in an elastomeric polyurethane material, with the exception of the gel material. They also each discloses a rigid frame of a polyamide material (nylon) (column 3, lines 64-67 in Inns and column 3, lines 16-18 in Scheier). '275 is cited to show that the use of a gel material (28) (paragraph 0026) for a similar purpose (the material in which the bristles are secured) as the elastomeric materials of Inns and Scheier is known in the art. It would have been obvious to one of ordinary skill at the time the invention was made to use such a gel material, since it has been held to be within the general skill of a worker in the art to select a known material (in this case one that is also recognized by the art as suitable for the same purpose) on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Response to Arguments

5. Applicant's arguments filed 21 January 2011 have been fully considered but they are not persuasive. Both the patents to Inns et al and Scheier et al discloses the elastomeric polyurethane material in which the bristles are secured. The patent to Moskovich et al teaches the use of a gel material disposed about the ends of the bristles (30) and to which "the cleaning elements 30 are directly mounted" (paragraph

0026, lines 1-4). In addition, the patent to Moskovich is applied in a 103 rejection and relied upon only to teach that the (polyurethane) elastomeric materials of the prior art (in which the bristles are embedded) may be formed of a gel material. Although the patent to Moskovich does not specify a polyurethane gel material, the element of the base references that is being so modified is already said to be a polyurethane. The added text to the claims is, by applicant's admission (page 3, lines 4-5), a property of a gel material (which is taught by Moskovich).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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